

ARTICLE 81-05.1

MOTOR VEHICLE EXCISE TAX

Chapter

81-05.1-01 Motor Vehicle Excise Tax

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Section

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81-05.1-01-01. Definitions. As used in this article all terms and phrases have the same meaning as defined in the North Dakota Century Code, and in addition "trailer" and "semitrailer" includes trailers towed by a bona fide resident farmer hauling agricultural, horticultural, dairy, or other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].

History: Effective June 1, 1984.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 57-40.3-01

81-05.1-01-02. Motor vehicle excise tax imposed.

1. All motor vehicles, except motor vehicles leased for a period of one year or more and having an actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less, purchased or acquired in or outside this state intended for use upon the streets and highways of this state are subject to an excise tax on the purchase price, less any trade-in allowance, of the motor vehicle.
2. Motor vehicles leased for a period of one year or more and having an actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less are subject to an excise tax on the total consideration of the lease at the time the lease is initiated.
3. A credit will be allowed for sales, use, or motor vehicle excise tax paid in another state on all motor vehicles purchased or acquired outside this

state if the state in which the motor vehicle was purchased or acquired allows a similar credit.

If the state in which the motor vehicle was purchased does not impose a sales tax or a motor vehicle excise tax, the North Dakota motor vehicle excise tax must be paid on the full purchase price of the vehicle before license and registration will be issued in this state. If the motor vehicle has been previously licensed and registered in a state which imposes no sales tax or motor vehicle excise tax, the North Dakota motor vehicle excise tax will apply at the fair market value of the vehicle upon registration in this state.

If a motor vehicle has been licensed and registered in a foreign country prior to its licensing and registration in this state, no credit is allowed for sales tax or motor vehicle excise tax previously paid to such foreign country.

4. The motor vehicle excise tax is in addition to any other tax provided for by law on the purchase price of motor vehicles.
5. The motor vehicle excise tax must be paid to the North Dakota department of transportation's motor vehicle division when application is made for registration plates or for a certificate of title for a motor vehicle.

Registration plates and certificates of title will not be issued unless the tax is paid.

History: Effective June 1, 1984; amended effective June 1, 2002.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 39-04-18, 57-40.3-02, 57-40.3-02.1, 57-40.3-06, 57-40.3-07, 57-40.3-08, 57-40.3-09

81-05.1-01-03. Exemptions. The following are exempt from payment of the North Dakota motor vehicle excise tax:

1. Any two motor vehicles owned by or leased and in the possession of a disabled veteran pursuant to conditions set forth in North Dakota Century Code section 57-40.3-04.
2. Any motor vehicle owned by or in possession of the federal or state government, including any state institution, or a political subdivision thereof.
3. Motor carrier vehicles in excess of twenty thousand pounds [9071.85 kilograms] gross weight, whether owned or leased, engaged in interstate commerce but only to the extent their revenue from interstate hauling bears to their total revenue from hauling for the preceding operating year.

For the purpose of properly administering this exemption, the percentage allowed as an exemption to carriers is derived from figures included in either the auto transportation utility annual report or the agricultural carrier annual report. One of those reports must be filed annually by each carrier registered with the North Dakota public service commission. When completing the required report, the carrier must include figures which indicate gross income from freight or passenger transport during the preceding calendar year as well as income from strictly intrastate transport for that year. No exemption is allowed until the required report is filed with the North Dakota public service commission.

When one person owns or leases two or more motor carrier vehicles over twenty thousand pounds [9071.85 kilograms], the receipts from all such vehicles will be used when figuring the percentage of revenue earned from interstate and intrastate transport for motor vehicle excise tax purposes.

When the person responsible for payment of the motor vehicle excise tax has not owned or leased such a motor carrier vehicle during the preceding year, no exemption is allowed at the time of titling it with the motor vehicle division, unless that person purchases a business which received revenue from interstate hauling in the preceding year. The exemption will be allowed only if there are no substantial changes intended which would affect the percentage of interstate hauling done by the business. No exemption will be allowed to persons responsible for the motor vehicle excise tax on the basis of projected miles of interstate transport for a future year or years. A person who purchases or leases such a motor carrier vehicle for use in interstate commerce but who did not own or lease such a vehicle for interstate commerce use during the preceding year will not be allowed an exemption at the time of titling the vehicle with the motor vehicle division, but after using it one year in interstate commerce, that person may apply for a refund for that part of the tax attributed to use in interstate commerce as determined in accordance with this section.

Private motor carriers and those agricultural carriers who are not required to file an annual report with the public service commission are eligible for the interstate exemption when titling motor carrier vehicles of at least twenty thousand pounds [9071.85 kilograms] gross weight. However, owners must submit a signed affidavit to the motor vehicle division indicating the percentage of gross revenue they received during the preceding calendar year from interstate transport of passengers or freight in such vehicles. These carriers' records will be subject to audit by the North Dakota tax department to substantiate figures claimed on the affidavit. The percentage of gross revenue refers to the gross revenue from freight or passenger transport.

4. Any motor vehicle transferred without consideration to or from a person within thirty days prior to that person's entering into, within thirty days after discharge from, or while serving in the armed services of the United States, provided the person certifies to the motor vehicle division that the transfer is made for one of those reasons.

Members of the armed forces on active military duty within this state are liable for payment of motor vehicle excise tax when titling a vehicle in this state.

Any motor vehicle purchased by a North Dakota resident who is a member of the armed forces and is stationed out of state may title that vehicle in this state but is exempt from payment of excise tax provided the vehicle is not intended for use in this state.

5. Motor vehicles acquired by inheritance from or by bequest of a decedent who owned it; the transfer of motor vehicles which were previously titled or licensed in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants; the transfer of motor vehicles by way of gift between a husband and wife, parent and child, or brothers and sisters.

This exemption includes title changes for motor vehicles as a result of name changes due to adoption, court order, marriage, or divorce.

6. Motor vehicles transferred between a lessee and a lessor, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer, and provided that the lessor has paid the tax based on the purchase price of the vehicle at the time of titling. This exemption does not include motor vehicles transferred between a lessee and a lessor, on or after July 1, 2001, for a period of one year or more and having an actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less.
7. Any motor vehicle in the possession of and used as a bus exclusively by a nonprofit senior citizens' or handicapped persons' corporation, provided that such bus is not used for commercial activities.
8. Any motor vehicle which does not exceed ten thousand pounds [4535.92 kilograms] gross weight and which is acquired by a permanently physically disabled licensed driver who is restricted to operating only motor vehicles equipped with special controls to compensate for the disability, or by a permanently physically disabled individual who has either surrendered or who has been denied an operator's license because of a permanent physical disability, provided the individual obtains from the state highway commissioner or an authorized representative a statement that either the individual has such a restricted operator's license, or has surrendered the license, or one has not been issued because of a permanent physical disability.

9. Any motor vehicle being registered pursuant to North Dakota Century Code chapter 39-04 for the first time by a person who manufactured or assembled the motor vehicle for that person's own use, except when such vehicle is manufactured by a manufacturer of motor vehicles as defined in subsection 32 of North Dakota Century Code section 39-01-01.
10. Motor vehicles purchased or leased and in the possession of a parochial or a private nonprofit school to be used for the transportation of students. This exemption includes motor vehicles used for driver education instruction. The vehicles may not be used in a commercial activity, and the school must normally maintain a regular faculty and a curriculum approved by the department of public instruction and must have a regularly organized body of students.
11. Housetrailers or mobile homes subject to the sales and use tax. Travel trailers are not exempt.
12. Motor vehicles transferred within one hundred eighty days from the effective date as the result of the following partnership transactions:
 - a. Motor vehicles licensed in the name of an individual who is a member of a general or limited partnership transferred to the partnership at the time the partnership is established.
 - b. Motor vehicles licensed in the name of a general or limited partnership transferred to an individual who is a member of such partnership at the time the partnership is terminated.
13. Motor vehicles transferred within one hundred eighty days from the effective date as the result of the following corporate transactions:
 - a. Motor vehicles licensed in the name of an individual who is a stockholder in a corporation transferred to the corporation at the time the corporation is organized.
 - b. Motor vehicles licensed in the name of a corporation transferred to a stockholder of that corporation at the time the corporation is liquidated.
14. Motor vehicles transferred within one hundred eighty days from the effective date of the business reorganization. The original owner of the motor vehicle must be a member of the reorganized business and the exemption applies only under the following circumstances:
 - a. A sole proprietor changes the name or the nature of the proprietor's business and requests a new title to reflect this change.

- b. A sole proprietor becomes a partner in a partnership and a new title is requested to reflect the change in ownership of the vehicle.
- c. A sole proprietor or partnership reorganized into a corporation and a motor vehicle is transferred from the sole proprietor or a partnership to the corporation.
- d. A motor vehicle is transferred between a subsidiary and a parent corporation as the result of a merger, exchange of, or redistribution of assets during the course of reorganization.
- e. A merger takes place between any of the following: a sole proprietorship, partnership, or corporation.
- f. A joint venture is undertaken.

History: Effective June 1, 1984; amended effective June 1, 2002.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 57-40.3-02, 57-40.3-02.1, 57-40.3-04

81-05.1-01-04. Leasing and rental companies. Leasing companies are responsible for payment of the motor vehicle excise tax to the motor vehicle division when titling vehicles for leasing purposes. The application of tax is as follows:

1. All motor vehicles leased for a period of one year or more and having an actual vehicle weight of ten thousand pounds [4535.92 kilograms] or less are subject to motor vehicle excise tax, at the time the owner of the vehicle titles the motor vehicle for use in this state, based on the total consideration of the lease at the time the lease is initiated. The motor vehicle excise tax will apply when additional charges are made after the inception of the lease, and may include excess mileage charges, excess wear charges, damage or repair charges, lease cancellation charges, option to renew charges, and end-of-the-lease payments. The subsequent purchase or buyout of a qualifying lease vehicle by the lessee will result in the payment of motor vehicle excise tax by the lessee on the purchase or buyout amount when titled or licensing the motor vehicle in this state.

Tax will apply to an end-of-the-lease payment if it is determined the lessee owes an additional charge based on the difference between the market value and the estimated residual value of the vehicle. No refund of tax is provided to the owner or lessee when the market value is greater than the estimated residual value.

2. All other motor vehicles placed into lease service will be subject to motor vehicle excise tax based on the purchase price of the vehicle at the time of titling or licensing the vehicle in this state. The subsequent purchase or buyout of the leased vehicle by the lessee will result in the payment of motor vehicle excise tax by the lessee on the purchase or buyout

amount when titling or licensing the motor vehicle in this state unless the vehicle has been in continuous possession of the lessee for a period of one year or more.

Rental companies are responsible for payment of the motor vehicle excise tax to the motor vehicle division when titling vehicles for rental purposes.

When a dealer occasionally rents a vehicle on a daily basis and has not paid motor vehicle excise tax on the vehicle, such as one held for resale, the dealer is required to collect and remit sales tax at the current rate based on the daily rental charges.

History: Effective June 1, 1984; amended effective June 1, 2002.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 57-40.3-02, 57-40.3-02.1, 57-40.3-04

81-05.1-01-05. Purchases by Indians. Purchases of motor vehicles by Indians are subject to the motor vehicle excise tax for titling purposes, unless the purchase occurs on an Indian reservation by an enrolled member of the tribe or by the tribe.

The owner of a motor vehicle intended for lease or rental to an enrolled member of the tribe is subject to the motor vehicle excise tax, unless the owner is an enrolled member of the tribe and the transaction occurs on the Indian reservation.

Motor vehicles owned and operated by Indian mission schools are exempt from payment of motor vehicle excise tax.

History: Effective June 1, 1984; amended effective July 1, 1998; June 1, 2002.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 39-04-18, 57-40.3-02, 57-40.3-02.1, 57-40.3-04, 57-40.3-08

81-05.1-01-06. Company-owned vehicles. When a company owns a vehicle which is titled in an employee's name, then transfers the title to another employee or to the company itself, motor vehicle excise tax is due.

History: Effective June 1, 1984.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 57-40.3-02

81-05.1-01-07. Nonfranchise purchases. Any automobile dealer who purchases a new vehicle for resale for which the dealer does not have the factory

franchise is liable for motor vehicle excise tax based on the acquisition cost of such vehicle.

History: Effective June 1, 1984.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 39-22-02

81-05.1-01-08. Purchase of vehicles with extra equipment. When purchasing and titling a vehicle which includes extra equipment such as a grain box, camper topper, well drilling rig, and bulk tank, motor vehicle excise tax must be remitted on the combined purchase price of both the vehicle and the extra equipment if purchased as a unit.

History: Effective June 1, 1984.

General Authority: NDCC 57-40.3-12

Law Implemented: NDCC 57-40.3-02

81-05.1-01-09. Refunds. If it appears that any motor vehicle excise tax was paid in error or remitted when not due, the tax will be refunded upon application. The application must be made within three years from the date of payment of the tax.

Such application should be made to the motor vehicle division who will, upon presentation of satisfactory proof, authorize the refund to be made. No refund will be authorized by the motor vehicle division until the motor vehicle division is fully satisfied through the production of necessary purchase agreements, tax receipts, other documents, and information that the refund is warranted.

A refund of the motor vehicle excise tax paid on the total consideration of a qualifying lease that is due and payable by the owner is not allowed unless the owner has agreed to cancel the lease and refund all moneys received or if the motor vehicle is returned under North Dakota Century Code chapter 57-40.4.

History: Effective June 1, 1984; amended effective June 1, 2002.

General Authority: NDCC 57-40.4-01

Law Implemented: NDCC 57-40.4-01, 57-40.4-02